

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Klehs Analyst: Rachel Coco Bill Number: AB 1631
Related Bills: See Legislative History Telephone: 845-4328 Introduced Date: February 22, 2005
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Underpayment of Estimated Tax Penalty Relief

SUMMARY

This bill would provide an exception to the estimated tax underpayment penalty.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to protect taxpayers from underpayment of estimated tax penalties incurred through no fault of their own.

EFFECTIVE/OPERATIVE DATE

As an urgency statute, this bill would be effective immediately upon enactment and apply to penalties imposed for any period prior to April 15, 2005.

POSITION

Support.

On December 1, 2004, the Franchise Tax Board voted 2-0 to sponsor language to provide a general exception to penalties for underpayments caused or increased by tax law changes imposed on and after January 1, 2006, which includes the provisions of this bill.

ANALYSIS

FEDERAL/STATE LAW

Under current state and federal laws, taxpayers generally are subject to a penalty for any underpayment of estimated tax. The penalty is an amount equal to the underpayment rate multiplied by the amount of the underpayment. The underpayment rate is the sum of the federal short-term rate, as determined by the Secretary, and three percentage points.

State and federal laws have allowed exceptions to the estimated tax underpayment penalty when the underpayment resulted from a specified legislative change.

Under California law, unless otherwise provided, a statute that changes the imposition of tax is immediately effective and operative for taxable years beginning on or after the preceding January 1st.

Current state law allows a tax credit, known as the Teacher Retention Credit, for teachers based upon years of service as a credentialed teacher.

Recently enacted legislation (SB 1100, Stats. 2004, Ch. 226) suspended the Teacher Retention Credit for the 2004 and 2005 taxable years.

Board Position:

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<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Department Director

Date

Gerald H. Goldberg

3/10/05

THIS BILL

This bill would provide an exception to the estimated tax underpayment penalty for individuals who underpaid their estimated taxes for the 2004 taxable year due to the unexpected suspension of the Teacher Retention Credit.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not impact the department's programs or operations.

LEGISLATIVE HISTORY

SB 14 (Campbell/Runner, 2005/2006) would provide a general exception to the underpayment of estimated tax penalty for all future tax law changes. SB 14 also would provide a specific exception to underpayment penalty for individuals who underpaid their estimated taxes during the 2004 taxable year due to the suspension of the Teacher Retention Credit. SB 14 is currently in the Senate Revenue and Taxation Committee.

SB 1100 (Senate Committee on Budget and Fiscal Review, Stats. 2004, Ch. 226), among other things, suspended the Teacher Retention Credit for the 2004 and 2005 taxable years.

AB 2065 (Oropeza, Stats. 2002, Ch. 488) suspended the Teacher Retention Credit for the 2002 taxable year and provided relief from the underpayment of estimated tax penalty for all tax law changes made during the 2002 taxable year.

AB 2879 (Jackson, Stats. 2000, Ch. 75) enacted the Teacher Retention Credit.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws. Research showed that these states have similar provisions to California's existing underpayment of estimated tax penalty provisions and allow exceptions to the penalty in specified instances.

FISCAL IMPACT

This bill would not impact the department's costs.

ECONOMIC IMPACT

This bill would not impact state income tax revenue.

LEGISLATIVE STAFF CONTACT

Rachel Coco
Franchise Tax Board
845-4328
rachel.coco@ftb.ca.gov

Brian Putler
Franchise Tax Board
845-6333
brian.putler@ftb.ca.gov